

JAN 24 2019

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# A BILL FOR AN ACT

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RELATING TO HISTORIC PRESERVATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. Chapter 235, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4       "§235-       Historic preservation income tax credit. (a)  
5 Notwithstanding any law to the contrary, there shall be allowed  
6 to each taxpayer subject to tax imposed by this chapter an  
7 income tax credit that shall be deductible from the taxpayer's  
8 net income tax liability, if any, imposed by this chapter for  
9 the taxable year in which the tax credit is properly claimed.  
10 For each rehabilitation plan for a certified historic property  
11 that is certified by qualified professional staff of the  
12 department of land and natural resources' state historic  
13 preservation division, the amount of the tax credit shall be:  
14       (1) Twenty-five per cent of the qualified rehabilitation  
15       expenditures; or  
16       (2) Thirty per cent of the qualified expenditures in the  
17       event that:



1           (A) At least twenty per cent of the units are rental  
2           units and qualify as affordable housing; or

3           (B) At least ten per cent of the units are individual  
4           homeownership units and qualify as affordable  
5           housing.

6           (b) The tax credit allowed under this section shall be  
7           available in the taxable year in which the substantially  
8           rehabilitate structure is placed into service. In the case of  
9           projects completed in phases, the tax credit shall be prorated  
10           to the substantially rehabilitated identifiable portion of the  
11           building placed into service during that taxable year.

12           (c) In the case of a partnership, S corporation, estate,  
13           trust, or any developer of a rehabilitated historic structure,  
14           the tax credit allowable shall be as provided under subsection  
15           (b) for the taxable year. The cost upon which the credit is  
16           computed shall be determined at the entity level and the  
17           distribution and share of the tax credit shall be determined  
18           pursuant to section 704(b) of the Internal Revenue Code.

19           (d) If the tax credit under this section exceeds the  
20           taxpayer's income tax liability, the excess of the credit over  
21           the liability shall be refunded to the taxpayer; provided that



1 no refund on account of the tax credit allowed by this section  
2 shall be refunded for an amount less than \$1. All claims,  
3 including any amended claims, for the tax credit under this  
4 section shall be filed on or before the end of the twelfth month  
5 following the close of the taxable year for which the credit may  
6 be claimed. Failure to comply with foregoing provision shall  
7 constitute a waiver of the right to claim the credit.

8 (e) The state historic preservation division shall develop  
9 rules pursuant to chapter 91 for the approval of rehabilitation  
10 of certified historic structures for which the tax credit under  
11 this section is sought. These standards and criteria shall take  
12 into account whether the rehabilitation of a certified historic  
13 structure will preserve the historic character of the building.

14 (f) Following the completion of rehabilitation of a  
15 certified historic structure, the owner shall notify the state  
16 historic preservation division that the rehabilitation has been  
17 completed. The owner shall provide the state historic  
18 preservation division with documentation of the costs incurred  
19 in rehabilitating the historic structure and shall submit  
20 certification of the costs incurred in rehabilitating the  
21 historic structure. The state historic preservation division



1 shall review the rehabilitation and verify that the  
2 rehabilitation project complied with the rehabilitation plan.  
3 The administrator of the state historic preservation division  
4 shall certify in writing that the rehabilitation has been  
5 completed in accordance with the approved rehabilitation plan,  
6 and provide that certification to both the project proponent and  
7 the director of taxation.

8 (g) The director of taxation shall prepare any forms that  
9 may be necessary to claim the tax credit under this section.

10 The director may also require the taxpayer to furnish reasonable  
11 information to ascertain the validity of the claim for credit  
12 made under this section and may adopt rules necessary to  
13 effectuate the purposes of this section pursuant to chapter 91.

14 (h) The aggregate amount of the tax credits claimed for  
15 qualified tax credits claimed for qualified rehabilitation  
16 projects for not exceed:

17 (1) \$ \_\_\_\_\_ for the 2020 tax year;

18 (2) \$ \_\_\_\_\_ for the 2021 tax year;

19 (3) \$ \_\_\_\_\_ for the 2022 tax year;

20 (4) \$ \_\_\_\_\_ for the 2023 tax year; and



1       (5)   \$ \_\_\_\_\_ for the 2024 tax year and every year  
2            thereafter.

3   The state historic preservation division shall be required to  
4   monitor and advise the department of taxation of the projected  
5   tax credit amount projected each year.

6       (i)   On an annual basis, the state historic preservation  
7   division, in consultation with the department of taxation, shall  
8   determine the information necessary to enable a quantitative and  
9   qualitative assessment of the outcomes of the tax credit to be  
10   determined. Each taxpayer claiming this credit shall, no later  
11   than the last day of the taxable year following the close of the  
12   tax year in which qualified costs were expended, submit a  
13   written, certified statement to the state historic preservation  
14   division containing the qualified rehabilitation expenditures  
15   incurred by the taxpayer and any other information the state  
16   historic preservation division or department of taxation may  
17   require.

18       Any taxpayer failing to submit information to the state  
19   historic preservation division in a manner prescribed by the  
20   state historic preservation division prior to the last day of  
21   the taxable year following the close of the tax year in which



1 the qualified costs were expended shall not be eligible to  
2 receive the tax credit for those expenses, and any credit  
3 already claimed for that taxable year shall be recaptured in  
4 total. The amount of the recaptured tax credit shall be added  
5 to the taxpayer's tax liability for the taxable year in which  
6 the recapture occurs.

7 All information in the statement submitted under this  
8 section shall be a public document, except for information that  
9 is otherwise exempt from public disclosure in accordance with  
10 chapter 92F.

11 (j) Recapture of a previously claimed tax credit shall be  
12 required from any taxpayer who received the credit if any of the  
13 following occur:

14 (1) The projected qualified expenditures do not  
15 materialize;

16 (2) The qualified rehabilitation plans do no proceed in a  
17 timely manner and in accordance with the approved  
18 plans;

19 (3) In the case of the thirty per cent tax credit, less  
20 than twenty per cent of the units qualify as  
21 affordable rental housing; or



1       (4) In the case of the twenty per cent tax credit, less  
2           than ten per cent of the units qualify as affordable  
3           homeownership units.

4       (k) On an annual basis, the state historic preservation  
5       division, in consultation with the department of taxation, shall  
6       submit a report to the legislature at least twenty days prior to  
7       the convening of each regular legislative session evaluating the  
8       effectiveness of the tax credit. The report shall include  
9       findings and recommendations to improve the effectiveness of the  
10       tax credit to further encourage the rehabilitation of historic  
11       properties.

12       (l) For the purposes of this section:

13       "Affordable homeownership units" means housing that meets  
14       the guidelines published by the United States Department of  
15       Housing and Urban Development for the year in which the units  
16       are initially offered for sale.

17       "Affordable rental housing" means rental housing that meets  
18       the guidelines published by the United States Department of  
19       Housing and Urban Development for the year in which the units  
20       are put into service.

21       "Certified historic structure" means any structure that is:



1        (1) Individually listed in the Hawaii register of historic  
2        places or the national register of historic places;

3        (2) Located in a historic district listed in the Hawaii  
4        register of historic places or the national register  
5        of historic places and certified by the state historic  
6        preservation division as contributing to the  
7        significance of the historic district; or

8        (3) A structure that the state historic preservation  
9        division has determined is eligible for inclusion in  
10       the Hawaii register of historic places, and which is  
11       listed in that register by the date of certification  
12       by the administrator of the state historic  
13       preservation division in accordance with subsection  
14       (f).

15       "Qualified rehabilitation expenditures" means any costs  
16       incurred for the physical construction involved in the certified  
17       rehabilitation of a certified historic structure; provided that  
18       for projects involving mixed residential and non-residential  
19       uses, at least thirty per cent of the total square footage of  
20       the rehabilitation is placed into service for residential use.





1 "Qualified rehabilitation expenditures" shall not include the  
2 owner's personal labor.

3 "Qualified staff" means a staff person meeting the  
4 Secretary of the Interior's Professional Qualification Standards  
5 for an architectural historian or historic architect.

6 "Rehabilitation plan" means any construction plans and  
7 specification for the proposed rehabilitation of a historic  
8 structure in sufficient detail for evaluation of compliance with  
9 the rules adopted by the state historic preservation division.

10 "Substantial rehabilitation" means the qualified  
11 rehabilitation expenditures of a historic structure that exceed  
12 twenty-five per cent of the assessed value of the structure."

13 SECTION 2. There is hereby established one temporary  
14 position in the state historic preservation division to assist  
15 with the establishment and administration of the Hawaii historic  
16 preservation income tax credit program. The authorization for  
17 this temporary position shall expire at the end of fiscal  
18 year .

19 SECTION 3. The department of land and natural resources  
20 shall be authorized to collect reasonable fees to defray the  
21 expenses incurred as reviewing and certifying plans pursuant to



1 carrying out section 235- , Hawaii Revised Statutes. Fees  
2 collected for these purposes shall be deposited into the Hawaii  
3 historic preservation special fund established pursuant to  
4 section 6E-16, Hawaii Revised Statutes.

5 SECTION 4. There is appropriated out of the general  
6 revenues of the State of Hawaii the sum of \$ or so  
7 much thereof as may be necessary for fiscal year 2019-2020 and  
8 the same sum or so much thereof as may be necessary for fiscal  
9 year 2020-2021 for one temporary position in the state historic  
10 preservation division to assist with the establishment and  
11 administration of the Hawaii historic preservation income tax  
12 credit program pursuant to this Act.

13 The sums appropriated shall be expended by the department  
14 of land and natural resources for the purposes of this Act.

15 SECTION 5. New statutory material is underscored.

16 SECTION 6. This Act, upon its approval, shall apply to  
17 taxable years beginning after December 31, 2019; provided that  
18 sections 2 and 3 shall take effect on July 1, 2019.

19  
INTRODUCED BY: 



  
Clarence K. Iwaki



# S.B. NO. 1394

**Report Title:**

Historic Preservation; Rehabilitation; Tax Credit; Appropriation

**Description:**

Establishes a historic preservation income tax credit.  
Appropriates funds for one temporary position to assist with the establishment and administration of the Hawaii historic preservation income tax credit program.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

